



City of San Diego

CARL DEMAIO
CITY COUNCILMEMBER – DISTRICT 5

KEVIN L. FAULCONER
CITY COUNCIL PRESIDENT PRO TEM – DISTRICT 2

MEMORANDUM

DATE: July 6, 2009

TO: Council President Ben Hueso and City Councilmembers

FROM: Council President Pro Tem Kevin L. Faulconer *Kevin L. Faulconer*
Councilmember Carl DeMaio *Carl DeMaio*

RE: Response to Grand Jury Report on Repeal of People's Ordinance

In response to the Grand Jury report entitled, "Time for Repeal of The People's Ordinance," we request that the following be considered as the official response from the City of San Diego.

FINDINGS

Finding 1

The [People's] Ordinance is inequitable because it forces some residents to pay for trash services, while it provides trash services to others without an additional fee.
City response: Disagree.

Recommend the adoption of the response proposed by Councilmember Lightner.

Finding 2

The total annual cost to the City for all trash and recycling services provided without a fee to San Diego residents is \$52.7 million per year.
City response: Disagree.

First, the Environmental Services Department (ESD) indicated that if new costs for billing, administrative expenses and containers were included, the total fee revenue to the City may be as high as \$65 million.

Second, simply noting the current "cost to the City...without a fee" does not comprehensively address the issue of efficiency. While the notion of "full cost recovery" has been discussed at length throughout the current budget process, the City must first eliminate inefficiencies in its operations.

As part of the rationale for *Finding 2* and *Recommendation 09-02*, the report states that:

“...voters would be more likely to approve the repeal [of the People’s Ordinance] if they had confidence that the City is managing its other financial problems wisely. The City employees’ pension board and City officials have recently acted to reign in the pension fund deficit, to negotiate more favorable labor contracts, and to reduce the size of City government.” (Emphasis added.)

Contrary to the above assertions, debts in the pension and post retirement medical program (retiree health) continue to represent serious financial obstacles. Also, the City needs to continue progress on the issue of high labor costs, and voter-approved reforms need to be implemented. Specifically:

- **Significantly Increased Pension Debt:** The last monthly estimate of the unfunded liability of the pension (UAAL) showed nearly a \$470 million increase since June 2008. This means that based on current market conditions, the UAAL for the City’s pension fund is estimated at \$1.77 billion, a funded ratio of 70.3%.
- **Retiree Health Care Debt:** A separate valuation of the City’s retiree health care program reveals a UAAL of over \$1 billion.
- **Delays in Managed Competition Implementation:** Under Managed Competition, which was approved by voters in 2006, competitive market forces would be harnessed to produce the best bargain for taxpayers. Unfortunately, as the City’s Chief Operating Officer recently noted, “the city’s labor unions have been steadfast in their efforts to delay managed competition at every turn,” and these delays have “come at the expense of a considerable investment of time” on the part of City officials and employees.

These long-term costs represent an ongoing obligation of the City in order to maintain financial stability. If voters eventually agree to overturn the People’s Ordinance, the fee that will be charged to residents will need to include the costs to cover these post-retirement benefits. Therefore, a cost-recoverable fee could potentially exceed the rate charged of other residents within the County of San Diego who receive trash pick-up from a private hauler. Efficiency tools such as Managed Competition, which has yet to be implemented, may significantly reduce the costs associated with trash services. Increasing revenues to cover costs associated with trash pickup should not be considered until sufficient progress has been made reducing such costs not only through voter approved initiatives, but any other available management tools.

Finding 3

A variable rate pricing strategy would reduce the amount of waste going to the City’s landfill and increase the amount of material being recycled.

City response: Disagree.

The Grand Jury Report refers to a study conducted by the Reason Foundation entitled “Variable-Rate or ‘Pay-As-You-Throw’ Waste Management.” This study examines anecdotal experiences, benefits and concerns associated with a variety of variable rate pricing strategies. A Pay-As-You-Throw (PAYT) pricing system is not the only method used by cities to reduce waste and increase the amount of material being recycled. In 1989, the state of California passed AB 939, which imposed a mandatory 50% diversion rate on municipalities by the year 2000¹. The City of San Francisco utilizes many methods beyond the PAYT system to increase its diversion rate, including the use of two bins for recyclables and a bonus-based system for haulers that rewards waste diversion. Furthermore, we have yet to see the effect of the City’s recently approved Construction & Debris Deposit Ordinance, which is charged with diverting 50% of construction debris from entering the City’s landfills.

Lastly, there are many unintended consequences of implementing a PAYT system that were not discussed within the original report. The Reason Foundation study cited by the Grand Jury lists many additional costs that would undoubtedly be included within the rate structure. These include:

- Customer Service Costs
- Billing System Costs
- Training of Collection Staff
- Costs for New Containers

Although the City has already reached the mandatory 50% diversion rate, the PAYT pricing strategy is one of many options available to increase recycling that has yet to be implemented.

The pros and cons of different pricing strategies, as well as policy objectives would have to be taken into account before implementing any new fee structure.

Ironically, the Grand Jury report uses Reason Foundation research as a primary source document for its findings related to variable rate structures, but makes no mention of the organization’s steadfast support of Managed Competition for San Diego’s trash service. In fact, a readily available June, 2008 article² notes that:

“A 1995 study of 120 local governments in 34 states found that, between 1987 and 1995, the percentage of cities contracting out for solid waste collection increased by 20 percent and that 100 percent of participants saw cost savings from this approach... Given the widespread use and proven success of trash collection competition programs, San Diego is wise to finally utilize this tool to provide better services at less cost to taxpayers.”

¹ Diversion rate is the percentage of waste materials diverted from traditional disposal such as landfilling or incineration to be recycled, composted, or re-used.

² Summers, Adam. “San Diego Can Benefit from Private Trash Collection.” Reason Foundation: June 16, 2008. <http://www.reason.org/news/show/1003131.html>

As explained in the response to *Finding 2* above, any discussion of increasing or instituting new fees-for-service must necessarily follow the minimization of costs by the City. This cost minimization must include the implementation of Managed Competition. The City should consider studying available options, such as providing a standard amount of trash service before increasing charges to residents, as well as encouraging recycling through price-based incentives.

RECOMMENDATIONS

Recommendation 09-02: Place a measure on the ballot to repeal the Ordinance.

City Response: Disagree.

Given the incorrect logic utilized to arrive at Finding 1, a repeal of the People's Ordinance is unnecessary to confront the issues highlighted by the Grand Jury report.

Recommendation 09-03: Consider adopting a variable-rate fee schedule for trash services provided by the City once the Ordinance is repealed.

City Response: Partially Disagree

Policy options, such as various types of fee schedules, should be considered for achieving waste management goals. However, the consequences (intended and unintended) of all options considered must be thoroughly vetted prior to implementation. Since the variable-rate fee schedule is not the only tool available to the City to increase the diversion rate; a cost-benefit analysis should be conducted of other successful practices from various cities to determine the optimal solution for San Diego taxpayers.

cc: Honorable Mayor Jerry Sanders
Andrea Tevlin, Independent Budget Analyst